

15103812D

## SENATE BILL NO. 1415

Offered January 23, 2015

A *BILL to amend and reenact § 32.1-102.1 of the Code of Virginia, relating to certificate of public need; projects.*

\_\_\_\_\_  
Patron—Dance

\_\_\_\_\_  
Referred to Committee on Education and Health

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-102.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-102.1. Definitions.**

As used in this article, unless the context indicates otherwise:

"Certificate" means a certificate of public need for a project required by this article.

"Clinical health service" means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure or a series of such procedures that may be separately identified for billing and accounting purposes.

"Health planning region" means a contiguous geographical area of the Commonwealth with a population base of at least 500,000 persons which is characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.

"Medical care facility," as used in this title, means any institution, place, building or agency, whether or not licensed or required to be licensed by the Board or the Department of Behavioral Health and Developmental Services, whether operated for profit or nonprofit and whether privately owned or privately operated or owned or operated by a local governmental unit, (i) by or in which health services are furnished, conducted, operated or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or more nonrelated persons who are injured or physically sick or have mental illness, or for the care of two or more nonrelated persons requiring or receiving medical, surgical or nursing attention or services as acute, chronic, convalescent, aged, physically disabled or crippled or (ii) which is the recipient of reimbursements from third-party health insurance programs or prepaid medical service plans. For purposes of this article, only the following medical care facilities shall be subject to review:

1. General hospitals.

2. Sanitariums.

3. Nursing homes.

4. Intermediate care facilities, except those intermediate care facilities established for individuals with intellectual disability (ICF/MR) that have no more than 12 beds and are in an area identified as in need of residential services for individuals with intellectual disability in any plan of the Department of Behavioral Health and Developmental Services.

5. Extended care facilities.

6. Mental hospitals.

7. Facilities for individuals with intellectual disability.

8. Psychiatric hospitals and intermediate care facilities established primarily for the medical, psychiatric or psychological treatment and rehabilitation of individuals with substance abuse.

9. Specialized centers or clinics or that portion of a physician's office developed for the provision of outpatient or ambulatory surgery, cardiac catheterization, computed tomographic (CT) scanning, stereotactic radiosurgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy, proton beam therapy, nuclear medicine imaging, except for the purpose of nuclear cardiac imaging, or such other specialty services as may be designated by the Board by regulation.

10. Rehabilitation hospitals.

11. Any facility licensed as a hospital.

The term "medical care facility" shall not include any facility of (i) the Department of Behavioral Health and Developmental Services; (ii) any nonhospital substance abuse residential treatment program operated by or contracted primarily for the use of a community services board under the Department of Behavioral Health and Developmental Services' Comprehensive State Plan; (iii) an intermediate care facility for individuals with intellectual disability (ICF/MR) that has no more than 12 beds and is in an area identified as in need of residential services for individuals with intellectual disability in any plan of the Department of Behavioral Health and Developmental Services; (iv) a physician's office, except that portion of a physician's office described in subdivision 9 of the definition of "medical care facility"; (v)

INTRODUCED

SB1415

59 the Woodrow Wilson Rehabilitation Center of the Department for Aging and Rehabilitative Services;  
60 (vi) the Department of Corrections; or (vii) the Department of Veterans Services. "Medical care facility"  
61 shall also not include that portion of a physician's office dedicated to providing nuclear cardiac imaging.

62 "Project" means:

63 1. Establishment of a medical care facility;

64 2. An increase in the total number of beds or operating rooms in an existing medical care facility;

65 3. Relocation of beds from one existing facility to another, provided that "project" shall not include  
66 the relocation of up to 10 beds or 10 percent of the beds, whichever is less, (i) from one existing  
67 facility to another existing facility at the same site in any two-year period, or (ii) in any three-year  
68 period, from one existing nursing home facility to any other existing nursing home facility owned or  
69 controlled by the same person that is located either within the same planning district, or within another  
70 planning district out of which, during or prior to that three-year period, at least 10 times that number of  
71 beds have been authorized by statute to be relocated from one or more facilities located in that other  
72 planning district and at least half of those beds have not been replaced, provided further that, however, a  
73 hospital shall not be required to obtain a certificate for the use of 10 percent of its beds as nursing  
74 home beds as provided in § 32.1-132;

75 4. Introduction into an existing medical care facility of any new nursing home service, such as  
76 intermediate care facility services, extended care facility services, or skilled nursing facility services,  
77 regardless of the type of medical care facility in which those services are provided;

78 5. Introduction into an existing medical care facility of any new cardiac catheterization, computed  
79 tomographic (CT) scanning, stereotactic radiosurgery, lithotripsy, magnetic resonance imaging (MRI),  
80 magnetic source imaging (MSI), medical rehabilitation, neonatal special care, obstetrical, open heart  
81 surgery, positron emission tomographic (PET) scanning, psychiatric, organ or tissue transplant service,  
82 radiation therapy, stereotactic radiotherapy, proton beam therapy, nuclear medicine imaging, except for  
83 the purpose of nuclear cardiac imaging, substance abuse treatment, or such other specialty clinical  
84 services as may be designated by the Board by regulation, which the facility has never provided or has  
85 not provided in the previous 12 months;

86 6. Conversion of beds in an existing medical care facility to medical rehabilitation beds or  
87 psychiatric beds;

88 7. The addition by an existing medical care facility of any medical equipment for the provision of  
89 cardiac catheterization, computed tomographic (CT) scanning, stereotactic radiosurgery, lithotripsy,  
90 magnetic resonance imaging (MRI), magnetic source imaging (MSI), open heart surgery, positron  
91 emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy, proton beam therapy,  
92 or other specialized service designated by the Board by regulation. Replacement of existing equipment  
93 shall not require a certificate of public need;

94 8. Any capital expenditure of \$15 million or more, not defined as reviewable in subdivisions 1  
95 through 7 of this definition, by or ~~in~~ on behalf of a medical care facility, *except such capital*  
96 *expenditure by or on behalf of a general hospital*. However, capital expenditures between \$5 and \$15  
97 million, *except such capital expenditure by or on behalf of a general hospital*, shall be registered with  
98 the Commissioner pursuant to regulations developed by the Board. The amounts specified in this  
99 subdivision shall be revised effective July 1, 2008, and annually thereafter to reflect inflation using  
100 appropriate measures incorporating construction costs and medical inflation; or

101 9. Conversion in an existing medical care facility of psychiatric inpatient beds approved pursuant to a  
102 Request for Applications (RFA) to nonpsychiatric inpatient beds.

103 "Regional health planning agency" means the regional agency, including the regional health planning  
104 board, its staff and any component thereof, designated by the Virginia Health Planning Board to perform  
105 the health planning activities set forth in this chapter within a health planning region.

106 "State Medical Facilities Plan" means the planning document adopted by the Board of Health which  
107 shall include, but not be limited to, (i) methodologies for projecting need for medical care facility beds  
108 and services; (ii) statistical information on the availability of medical care facilities and services; and  
109 (iii) procedures, criteria and standards for review of applications for projects for medical care facilities  
110 and services.

111 **2. That the provisions of this act shall not affect any application for a certificate of public need**  
112 **filed with the Department of Health on or before December 31, 2014, any appeal to a court of**  
113 **competent jurisdiction taken therefrom, or any appeal of the issuance or denial of a certificate of**  
114 **public need pending in a court with appropriate jurisdiction as of December 31, 2014.**